

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant and Owner: Erica Deighton, 281 Potwine Lane, Amherst, MA 01002

Date Application filed with the Town Clerk: February 24, 2006

Nature of request: Petitioner seeks to renew Special Permit ZBA FY2004-00028, under Section 6.3 of the Zoning Bylaw, for a flag lot.

Location of property: 275 Potwine Lane,
Map 23A, Parcel 41, R-O and R-LD/FC Zones

Legal notice: Published in the Daily Hampshire Gazette on March 22 and March 29, 2006, and sent to abutters on March 22, 2006.

Board members: Tom Simpson, Ted Rising and Jane Ashby

Submissions:

The applicants submitted the following documents:

- A Management Plan for 261, 265 and 275 Potwine Lane, recorded in the Registry of Deeds October 22, 2004;
- Plan entitled "Flag Lot Special Permit" prepared by Harold L. Eaton and Associates, dated January 14, 2004 and approved by the Zoning Board of Appeals on February 12, 2004;
- Plan entitled "Subdivision Approval Not Required" prepared by Harold L. Eaton and Associates, dated December 30, 2003, and approved by the Zoning Board of Appeals on February 12, 2004.

Town staff submitted the following documents:

- Determination of Applicability, # RFD04-0878, issued by the Conservation Commission on February 12, 2004;
- GIS maps showing the parcel in context with the surrounding lots and showing zoning districts.

Site Visit: April 4, 2006

At the site visit the Board was met by the applicant, Erica Deighton. The Board observed the following:

- The location of the site on a rural road, surrounded by single-family homes and open fields;
- The two new homes that have been constructed on the adjacent frontage lot and the adjacent flag lot;
- The existing common driveway;
- The open field that comprises the common land associated with this development;
- The woods at the edge of the common land.

Public Hearing: April 6, 2006.

At the public hearing Erica Deighton presented the petition to renew the flag lot Special Permit. She made the following comments:

- The lot has not been built upon;
- The current owner has no plans to build on the lot;
- She purchased the lot to prevent building;
- She would like to maintain the value of the lot and the right to build.

Tom Simpson noted that the flag lot had been previously permitted by a Special Permit.

Ted Rising noted that the current application is for one flag lot and not two as the previous permit had been. He commented that the previous Special Permit seemed appropriate and that the driveway management plan was comprehensive. He had no problems with the application.

Mark Snow, Assistant Building Commissioner, had no questions.

Ted Rising MOVED to close the evidentiary portion of the public hearing. Tom Simpson SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

The Board discussed possible conditions. They determined that the conditions from the previous Special Permit were adequate, with some revisions and that one should be added, limiting development on the site to a single-family house.

Public Meeting – Findings:

Under Zoning Bylaw Section 6.3 the Board found that:

- 6.3 – The site lies in the R-O and R-LD Districts, with an FC overlay on the rear portion of the lot.
- 6.31 – The site is not part of an Approved Definitive Subdivision Plan and the lots meet all of the requirements of Section 6.32 through 6.37 of the Zoning Bylaw.
- 6.32 – The rear portion of the lot lies in the FC zone and is therefore subject to Sections 3.2832, 4.3271 and 4.3272, as follows: The main body of the lot is less than 30,000 square feet, the maximum allowed.
- 6.33 – The lot has an access strip (“pole”) with a minimum frontage and minimum width of 40 feet and a maximum length of less than 400 feet; there is no change in direction on the access strip greater than 45 degrees.
- 6.34 and 6.35 – The width of the building area is more than 150 feet and the building area is capable of containing a circle whose diameter is 150 feet, which is the frontage requirement for lots with frontage in the R-O zone.
- 6.36 – There are no more than three flag lots adjacent to each other at the street line.
- 6.37 – Access to the lots meets the requirements of Section 7.7 of the Zoning Bylaws, Access Requirements and Driveways.
- 6.38 – There are no more than three flag lots created from the original lot.

Public Meeting – Zoning Board Decision

Jane Ashby MOVED to approve the petition with conditions. Ted Rising SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to GRANT a Special Permit, with conditions, under Section 6.3 of the Zoning Bylaw, as applied for by Erica Deighton, for a flag lot, at 275 Potwine Lane, (Map 23A Parcel 41, R-O/R-LD/FC Zones).

TOM SIMPSON

TED RISING

JANE ASHBY

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.

NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, under Section 6.3 of the Zoning Bylaw, as applied for by Erica Deighton, to renew Special Permit ZBA FY2004-00028 for a flag lot, at 275 Potwine Lane, (Map 23A, Parcels 41, R-O/R-LD/FC Zones) with the following conditions:

1. The flag lot shall have access via the common driveway only, as shared with the frontage lot and the adjacent flag lot.
2. The project shall be built as shown on the plans approved by the Board at the public meeting on February 12, 2004.
3. The common driveway, common land, utility easement and open space shall be managed and maintained in accordance with the Management Plan filed at the Registry of Deeds on October 22, 2004.
4. Drainage from the common driveway shall not overflow onto abutting property.
5. The emergency vehicle turnaround area shall be designed with appropriate radii to allow emergency vehicles to make their turns.
6. This flag lot is subject to Section 14 of the Zoning Bylaw, Phased Growth. Development authorizations are available as of May 2006.
7. No dwelling unit other than a single-family house may be built on this lot.
8. Prior to the issuance of a Building Permit a final site plan showing the location of the house and the driveway shall be submitted to the Board for approval at a public meeting.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE